

United States District Court  
Eastern District of Washington

GLEN A. LIVERMORE,

Plaintiff,

-against-

DEBRA TONHOFFER, MD, JOHN SMITH, MD,  
ROBERT HERZOG, DOC PERSONNEL, DONALD  
HOLBROOK, SUPERINTENDENT OF WSP, STEVEN  
SINCLAIR, SECRETARY OF DOC, KEN MOORE, PA,  
JUSTIN SASSONE, PA, PATRICK PETERSON, PA,  
RUTH OMAN, ARNP, NEAL RENDLEMAN, MD,  
BENJAMIN RODRIQUEZ, MD, DANIEL DELP, PA,  
JOHN ROGERS, DNP, ARNP, JONATHAN NEUA, PA,  
SHANE RIRIE, PA, JACKIE SHUEY, PA, SARA  
SMITH, MD, LOUIE FIGUEROA, PA, SCOTT LIGHT,  
PA, SCOTT ARNOLD, PA, ERIN LYSTAD, PA, MARY  
COLTER, MD, LISA ANDERSON LONGANO, MD,  
LINDSAY MUNRO, ARNP, PAMELYN SAARI, ARNP,  
KENNETH SAWYER, MD, G. STEVEN HAMMOND, MD,  
RUSTY SMITH, MEDICAL SUPERVISOR AT AHCC,  
C/O HOMELEIN, WSP PERSONNEL, C/O DERRY,  
WSP PERSONNEL, JOHN OR JANE DOES 1-2, WSP  
PERSONNEL, AND JOHN OR JANE DOES 3-30,  
CRC COMMITTEE MEMBERS,

Defendants.

Case No. 4:18-cv-05075-RMP  
(To be filled out by Clerk's  
Office only)

**COMPLAINT**  
(*Pro Se* Prisoner)

Jury Demand?

☒ Yes

☐ No

**NOTICE**

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

**Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.**

**RECEIVED**  
**Apr 26, 2018**

Page 1  
Rev. 10/2015

**CLERK, U.S. DISTRICT COURT**

**I. COMPLAINT**

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)  
☒ 42 U.S.C. § 12132  
☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

**II. PLAINTIFF INFORMATION**

LIVERMORE, GLEN A.		n/a
Name (Last, First, MI)		Aliases
<hr/>		
#241349		
Prisoner ID #		
<hr/>		
Washington State Penitentiary [hereinafter "WSP"]		
Place of Detention		
<hr/>		
Washington State Penitentiary, 1313 N. 13th Ave.		
Institutional Address		
<hr/>		
Walla Walla, Walla Walla,	Washington	99362
County, City	State	Zip Code

**III. PRISONER STATUS**

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee  
☐ Civilly committed detainee  
☐ Immigration detainee  
☒ Convicted and sentenced state prisoner  
☐ Convicted and sentenced federal prisoner

**IV. DEFENDANT(S) INFORMATION**

*Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.*

Defendant 1: DEBRA TONHOFFER, MD

Name (Last, First)

DOCTOR

Current Job Title

Airway Heights Correctional Center (AHCC), P.O. Box 1838

Current Work Address

Airway Heights

WA

99001-1838

County, City

State

Zip Code

Defendant 2: JOHN SMITH, MD

Name (Last, First)

Doctor

Current Job Title

WSP, 1313 N. 13th Ave.

Current Work Address

Walla Walla

WA

99362

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 3: KEN MOORE, PA  
 Name (Last, First)  
Physician's Assitant  
 Current Job Title  
WSP, 1313 N. 13th Ave.  
 Current Work Address  
Walla Walla WA 99362  
 County, City State Zip Code

Defendant 4: JUSTIN SASSONE, PA  
 Name (Last, First)  
Physician's Assistant, 2015 CRC Member  
 Current Job Title  
Unknown  
 Current Work Address  
Unknown  
 County, City State Zip Code

**Defendant(s) Continued**

Defendant 5      PATRICK PETERSON, PA

Name (Last, First)

Physician's Assistant, 2015 Member of CRC

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

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Zip Code

Defendant 6 RUTH OMAN, ARNP

Name (Last, First)

2015 Member of CRC

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 7 NEAL RENLEMAN, MD  
 Name (Last, First)

Doctor, 2015 CRC Member  
 Current Job Title

Unknown  
 Current Work Address

Unknown  
 County, City State Zip Code

Defendant 8 BENJAMIN RODRIQUEZ, MD  
 Name (Last, First)

Doctor, 2015 CRC Member  
 Current Job Title

Unknown  
 Current Work Address

Unknown  
 County, City State Zip Code

**Defendant(s) Continued**

Defendant 9 DANIEL DELP, PA  
 Name (Last, First)  
 2015 CRC Member  
 Current Job Title  
 Unknown  
 Current Work Address  
 Unknown  
 County, City State Zip Code

Defendant 10 JOHN ROGERS, ARNP  
 Name (Last, First)  
 2015 CRC Member  
 Current Job Title  
 Unknown  
 Current Work Address  
 Unknown  
 County, City State Zip Code



**Defendant(s) Continued**

Defendant 11 JONATHAN NEAU, PA

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

Defendant 12 SHANE RIRIE, PA

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code



**Defendant(s) Continued**

Defendant 17 JACKIE SHUEY, PA

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

Defendant 14 SARA SMITH, MD

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 15 LOUIE FIGUEROA, PA

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

Defendant 16 SCOTT LIGHT, PA

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 17 SCOTT ARNOLD, PA

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

Defendant 18 ERIN LYSTAD, PA

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 19 MARY COLTER, MD

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

Defendant 20 LISA ANDERSON-LONGANO, MD

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 21 LINDSAY MUNRO, ARNP

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

Defendant 22 PAMELYN SAARI, ARNP

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 23 KENNETH SAWYER, MD

Name (Last, First)

2015 CRC Member

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

Defendant 24 G. STEVEN HAMMOND, MD

Name (Last, First)

Washington Department of Corrections (DOC) Medical Director

Current Job Title

DEPARTMENT OF CORRECTIONS, P.O. BOX 41118

Current Work Address

OLYMPIA

WA

98504-1118

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 25 STEVEN SINCLAIR

Name (Last, First)

CURRENT DOC SECRETARY

Current Job Title

DOC, P.O. BOX 41118

WA

98504-1118

Current Work Address

OLYMPIA

WA

98504-1118

County, City

State

Zip Code

Defendant 26 RUSTY SMITH

Name (Last, First)

SUPERVISOR OF MEDICAL DEPARTMENT AT AHCC

Current Job Title

AHCC, P.O. BOX 1838

Current Work Address

Airway Heights,

WA

99001-1838

County, City

State

Zip Code



**Defendant(s) Continued**

Defendant 27 C/O HOMELEIN

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Name (Last, First)

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Correctional Officer at WSP

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Current Job Title

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WSP, 1313 N. 13th Ave.

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Current Work Address

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Walla Walla,

WA

99362

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County, City

State

---

Zip Code

Defendant 28 C/O DERRY

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Name (Last, First)

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Correctional Officer at WSP

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Current Job Title

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WSP, 1313 N. 13th Ave.

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Current Work Address

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Walla Walla,

WA

99362

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County, City

State

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Zip Code

**Defendant(s) Continued**

Defendant 29 ROBERT HERZOG

Name (Last, First)

DOC Headquarters Personnel

Current Job Title

DOC, P.O. Box 41118

Current Work Address

OLYMPIA,

WA

98504-1118

County, City

State

Zip Code

Defendant 30 JOHN OR JANE DOES 1-2

Name (Last, First)

Correctional Officers at WSP whom transported Plaintiff on 01/31/18

Current Job Title

WSP, 1313 N. 13th Ave.

Current Work Address

Walla Walla,

WA

99362

County, City

State

Zip Code

**Defendant(s) Continued**

Defendant 31 DONALD HOLBROOK

Name (Last, First)

SUPERINTENDENT AT WSP

Current Job Title

WSP, 1313 N. 13th Ave.

Current Work Address

Walla Walla,

WA

99362

County, City

State

Zip Code

Defendant 32 JOHN OR JANE DOES 3-30

Name (Last, First)

CRC Members whom have made decisions denying medical services

Current Job Title

Unknown

Current Work Address

Unknown

County, City

State

Zip Code

**V. STATEMENT OF CLAIM**

Place(s) of  
occurrence: Airway Heights Correctional Center, WA State Penitentiary

Date(s) of occurrence: Between April 29, 2015 through April 26, 2018

State which of your federal constitutional or federal statutory rights have been violated:

Eighth Amendment, Cruel and Unusual Punishment; 42 U.S.C. §12132, American  
Disability Act Violations.

*State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.*

**FACTS:**

1. Plaintiff, Glen Livermore, is a prison resident whom was held at the  
Airway Heights Correctional Center (AHCC) and is currently resides at  
the Washington State Penitentiary. Mr. Livermore has suffered with a  
back injury while being incarcerated for well over eight years.
2. Mr. Livermore respectively present four claims in this 42 U.S.C. §1983  
and 42 U.S.C. §12132 cause of action:
  - (1) Failure to provide adequate medical pursuant to back injury;
  - (2) Failure to provide adequate medical pursuant to sores on body
  - (3) Failure to provide adequate special diabetic meals; and
  - (4) Multiple ADA violations stemming from prison conditions.
3. The facts that are relevant to claim 1 are presented in the attached  
sworn Declaration of Glen A. Livermore in Support of His Civil Rights  
complaint, [hereinafter "Declaration"], pgs. 1-27 at ¶¶1.1-1.85.

4. The facts that are relevant to claim 2 are presented in the attached Declaration, pgs. 27-28 at ¶¶2.86-2.94. See Ex. A.
5. The facts that are relevant to claim 3 are presented in the attached sworn Declaration, pgs. 28-29 at ¶¶3.95-3.99. See Ex. A.
6. The facts that are relevant to claim 4 are presented in the attached sworn Declaration, pgs. 29-30 at ¶¶4.100-4.104. See Ex. A.
7. All defendants herein acted with deliberate indifference to my serious medical needs in color of State law and Plaintiff, as a prison resident, stood in a special relationship with Defendants.
8. Defendants: Justin Sassone, Patrick Peterson, Ruth Oman, Neal Rendleman, Benjamin Rodriquez, Daniel Delp, John Rogers, Jonathan Neau, Shane Ririe, Jackie Shuey, Sara Smith, Louie Figueroa, Scott Light, Scott Arnold, Erin Lystad, Mary Colter, Lisa Anderson-Longano, Lindsay Munro, Pamelyn Saari, and Kenneth Sawyer were on the CRC in 2015 which denied Plaintiff from having proper medical attention in evaluating and providing the proper surgery to fix his back so the Plaintiff would not be in excruciating daily pain. The 2015 CRC Committee would have had access to his medical files showing a clear medical need and with deliberate indifference to my serious medical need, denied Plaintiff of the necessary medical attention. This decision was not medically acceptable under the circumstances and their decision was in a conscious disregard to an excessive risk to Plaintiff's health.
9. Defendant Debra Tonhofer's actions of turning a blind eye to Plaintiff's serious medical needs of proper pain medication for his back, a proper referral to a neurologist to evaluate his back, a proper referral to a



Dermatologist to find out why his sores were not going away after having them for an extensive amount of time, taking his wheelchair away from him when there was an obvious need thereof which in turn forced the Plaintiff to miss meals, medical appointments, and other prison programs, was not medically acceptable under the circumstances and was in an absolute complete disregard to an excessive risk to Plaintiff's health.

10. Defendant Rusty Smith's actions of turning a blind eye to Plaintiff's serious medical needs when he was put on notice of Plaintiff's serious medical needs while the Plaintiff resided at AHCC. See Exhibit A, Declaration at ¶¶1.7-1.8.
11. Defendant John Smith's actions of denying Plaintiff of proper pain medication for his back, failing to provide proper care in evaluating and referring Plaintiff to a Dermatologist due to the sores on Plaintiff's body which have now been in existence for years without completely going away, while Plaintiff was housed both at AHCC and WSP, were not medically acceptable under the circumstances and was in disregard to an excessive risk to Plaintiff's health.
12. Defendant Ken Moore's actions of denying Plaintiff of proper pain medication for his back, failing to provide proper care in evaluating and referring Plaintiff to a Dermatologist due to the sores on Plaintiff's body which have now been in existence for years without completely going away, while Plaintiff resided at the WSP, was not medically acceptable under the circumstances and was in disregard to an excessive risk to Plaintiff's health.
13. Medical Director G. Steven Hammond's actions of turning a blind eye

after being put on notice Plaintiff's serious medical needs while Plaintiff resided at both the AHCC and the WSP. See Ex. A, Declaration at ¶¶1.10; and the appeal process of the 2015 CRC denial.

14. C/O Homelein, C/O Derry, and John or Jane Does 1-2's actions of forcing Plaintiff to get into a non wheelchair compliant vehicle to transport the Plaintiff to the local hospital, knowing that the Plaintiff was in a wheelchair and after the Plaintiff told them that he just had back surgery and he was supposed to be transported in a wheelchair compliant vehicle, which ultimately ripped open the wounds from Plaintiff's recent surgery and caused under pain and suffering and a possible permanent back injury, constitutes cruel and unusual punishment. See Exhibit A, Declaration at ¶¶1.77-1.82
15. Defendant Robert Herzog's actions of turning a blind eye after being put on notice of Plaintiff's serious medical needs while investigating a grievance and failing to take any action to rectify the constitutional violations, constitute cruel and unusual punishment.
16. Secretary of DOC, Steven Sinclair and Superintendent of the WSP, Donald Holbrook, are sued in their official capacity as they have the statutory authority to order Defendants to provide the necessary medical care ask thereof in both a preliminary and permanent injunction as ask herein.
17. It is very possible that Defendant's actions in not timely providing the necessary medical care provided permanent damage where Plaintiff might not be able to walk right ever again.



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## VI. ADMINISTRATIVE PROCEDURES

*WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.*

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

18. The last time Plaintiff grieved the issues presented in Claim 1 was  
in 2014 where prison personnel stated they would not here the grievance  
again because of the vast amount of times I grieved the issue. After  
that I was afraid to grieve the issue fearing I would never get the  
operation that I so desperately needed. All other issues fully grieved.

Is the grievance process completed?

☒ Yes ☐ No

If no, explain why not:

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## VII. RELIEF

*State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.*

19. A preliminary and permanent injunction ordering Defendants to:

(a) Allow Plaintiff to be properly seen by a Dermatologist to  
find out why the sores on his body will not go away and  
provide the proper relief thereof;

(b) Provide proper physical therapy to help Plaintiff's recovery  
surgery;

(c) Provide proper pain medication when needed while in the

recovery of surgery; and

(d) Provide adequate disability accommodations such as a wheelchair AND pusher to travel longer distances, handrails in cell, and a proper mattress.

20. Monetary and Punitive damages pursuant to Claim 1 in an amount to be determined at trial and all costs to bring this cause forward.

**VIII. PRISONER'S LITIGATION HISTORY**

*The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has "on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. §1915(g).*

Have you brought any other lawsuits in state or federal court while a prisoner?

☒ Yes ☐ No

If yes, how many? 3

Number each different lawsuit below and include the following:

- Name of case (including defendants' names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

Two State Causes of Action regarding property which Plaintiff was provided relief on both.

1 federal cause in this Court, Cause No. 2:12-cv-00377-RMP, which was a denial of access to medical pursuant to the same underlying current cause for the time frame of 2009 through 2012. The cause was dismissed without prejudice because Plaintiff did not have help in bringing the cause forward.

**IX. PLAINTIFF'S DECLARATION AND WARNING**

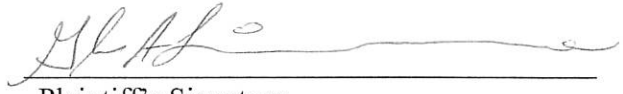
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

*Plaintiff must sign and date the complaint and provide prison identification number and prison address.*

4-26-18

Dated



Plaintiff's Signature

LIVERMORE, GLEN A.

Printed Name (Last, First, MI)

#241349

Prison Identification #

WSP, 1313 N. 13th Ave.

Prison Address

Walla Walla

City

WA

State

99362

Zip Code

BY SIGNING ABOVE, I declare under penalty of perjury under the laws of the United States Constitution that the foregoing is true and correct to the best of my knowledge and beliefs and that I signed this document in Walla Walla County of the State of Washington.